IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 270 OF 2006

IN

WRIT PETITION NO. 1618 OF 2003

Prabhu N. Surve ... Appellant

Versus

I.B.P.Company Ltd. and anr. ... Respondents.

Mr. N.M. Ganguli for the appellant.
Mr. A.H. Patel for respondent No.1.

CORAM: **KSHITIJ R. VYAS, C.J.** &
ABHAY .S. OKA, J.

DATE: **JUNE 22, 2006**.

P.C.

The appellant has challenged the order dated 31st August, 2005, passed by the learned single Judge in Writ Petition No. 1618 of 2003. In the said writ petition, the appellant has challenged the Award dated 10th June, 2002 passed by the Central Government Industrial Tribunal No.1, who refused to interfere with the punishment of dismissal of the appellant.

2. The appellant was serving as a Security Guard with the first

respondent Company. A charge-sheet came to be issued on the appellant with the allegations of committing theft or dishonesty in connection with the employer's business or property, commission of an act subversive of discipline or good behaviour on the premises of the first respondent and gross negligence. An Enquiry Officer came to be appointed. The Enquiry Officer held the charges proved against the appellant by his findings dated 26th October, 1994. A show cause notice was issued to the appellant on 31st December, 1994 calling upon the appellant as to why action should not be taken to which the appellant furnished his reply on 30th January, 1995. By an order dated 16th June, 1995, the appellant was dismissed from the services of the first respondent. By an award dated 10th June, 2002, the Industrial Tribunal confirmed the findings of the Enquiry Officer and the order of dismissal. The Industrial Tribunal after analysing the entire evidence on record, inquiry proceedings, findings of the Enquiry Officer and all material evidence on record rejected the reliefs sought for by the Appellant. As stated above, the appellant has challenged the said Award of the Industrial Tribunal before the learned single Judge.

3. The appellant has raised two contentions before the learned single Judge. Firstly in respect of the offence, which is the subject

matter of the charge-sheet, once the appellant was discharged, the first respondent could not have proceeded with the enquiry. The second contention urged was that the punishment imposed, considering the charges proved and the past service record, was disproportionate and consequently the same had to be set aside. According to the learned counsel for the appellant, the punishment imposed was in violation of the principles of natural justice and fair play. The learned single after considering the decision cited in the case of *Gajanan Babu Patil* vs. *State of Maharashtra* [2005 (3) All M.R. 565] arrived at a finding that the award of the Tribunal does not suffer from any error of law apparent on the face of record.

4. The learned counsel appearing for the appellant has adopted the same arguments which were raised before the learned single Judge before us. Having gone through the reasoning of the learned single Judge, in our opinion, no interference is called for as the learned single Judge has rightly held against the appellant. Needless to say that we are concurring with the reasoning and the conclusions reached by the learned single Judge.

5. We, therefore, find no merit in this appeal. The same is accordingly dismissed.

CHIEF JUSTICE

ABHAY S. OKA, J.